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MEMORIALS, TESTIMONY,

&c.

om the Inhabitants residing on the

NIAGARA FRONTIER.

MEMORIAL

OF

THE INHABITANTS

RESIDING

ON THE NIAGARA FRONTIER,

respectfully addressed to

THE SENATE AND HOUSE OF REPRESENTATIVES

of the United States of America.

CITY of WASHINGTON,

PRINTED BY JONATHAN ELLIOT, PENNSYLVANIA AVENUE.

1817.

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ADVERTISEMENT.

The object in publishing the following documents is to enable the members of the two houses of Congress to examine, with the least inconvenience, the merits of the bill now depending before them, for the relief of the Niagara sufferers. The evidence, on the files of the house of representatives, relating to this subject, and comprising nearly the whole of the official records and proceedings of the commissioner, is too voluminous to permit of a public reading, and, consisting of single copies only, does not afford to the members an opportunity of examining it individually, in their hours of leisure.

It is regretted, that the fear of being obtrusive, prevented the petitioners from publishing the whole or part of the evidence at an early period. Had they done so, it is presumed that the honorable, the senate, would not have entertained a proposition directing the commissioner to collect and report evidence, a year hence, in relation to their cause, when the fullest and most minute evidence relative to those causes, taken under the forms prescribed by

the special act of last session, had been lying for two months on the table of the house of representatives.

From the mass of depositions relating to individual cases, the object has been to select, for publication, such as go to shew the general, rather than the particular occupancy of private buildings for public purposes; and that such occupancy furnished to the enemy, the predominant motive for the destruction of the whole frontier.

An objection has been made to the bill reported by the select committee, that it is too general, and may embrace cases not coming literally within the rule of indemnification heretofore adopted by Congress. It is probable that buildings which were not in public use at the moment of their destruction, may have been burnt in consequence of their contiguity to others that were so used. But if the following proofs shew, as they incontestibly do, that the continual practice of converting private buildings on the Niagara frontier to public uses, led to the destruction of the whole, the committee, it is believed, will be justified in deciding that the purposes of public justice will be better attained by a *general* relief to the sufferers, although, not to the full extent of their losses, than by adopting nice, and, in their operation, odious discrim-

inations, depending on trivial and accidental circumstances, not effecting the equity of the subject. An individual whose house is burned in consequence of its contiguity to a military deposit, has as fair a claim to the equity of Congress as the owner of the other.

The Niagara sufferers do not pretend to claim the exclusive sympathy and consideration of congress. They wish every portion of their suffering fellow citizens to receive the same indemnification which they now ask. But the peculiar severity of their sufferings has, probably, induced them to be earlier with their proofs, and they ardently hope that Congress will not fail to consider how much the proposed relief will be enhanced by its being prompt.

City of Washington, Feb. 21, 1817.

MEMORIAL.

To the honorable, the senate and house of representatives of the United States of America, in congress assembled, the memorial and petition of the undersigned respectfully shew,

That your memorialists belong to that unfortunate class of citizens residing on the Niagara frontier, most of whom were reduced by the events of the late war from a state of competency and comfort to absolute want and beggary: That, at the session of congress which succeeded the restoraton of peace, they presented their petitions to your honorable body, respectfully soliciting;—not a remuneration for the extraordinary personal sufferings to which they had been subjected during the whole period of the war, by their local situation;—not an indemnification for the loss of their time, in three years suspension of their ordinary pursuits of business;—not a redress for the inconveniencies of having their fields, their gardens, and their houses the common thorough fares of soldiers of every description: But a fair and moderate compensation for the loss of their property actually destroyed by the incursion of the enemy in the winter of 1813-14.—In that petition they simply reminded you of the deplorable situation to which they had been reduced by a transaction notorious in most of its particulars thro' the U. S. They purposely abstained from com-

ment in the proud assurance that they were addressing themselves to the guardians of a republic, the principles and base of whose social compact is, that every burthen as well as every benefit resulting from their political association shall be borne and enjoyed equally by every member of that association; and that it was sufficient to present their case regularly before the proper tribunal of their country, to ensure a prompt and adequate relief. In this expectation they were not altogether disappointed, for a law was passed during that session providing an indemnification for a considerable portion of your memorialists; and although they were not able to comprehend the justice or policy of the discriminations of that law, by which one class of sufferers is indemnified, while another, equally meritorious in the view of your memorialists, is neglected, yet they saw in it, with much satisfaction, a full and distinct recognition of the great principle to which they have adverted. That it is the duty of government to equalize the losses which have been incurred in the prosecution of national objects.

Many of the Niagara sufferers have already obtained, under that law, an indemnification for their losses; and while others were engaged in prosecuting their claims, their progress was arrested by the information that the president of the United States had suspended the execution of the law, under the influence of a doubt whether congress really intended *any* relief to your memorialists.

In this state of things your memorialists, aware how often and how insidiously the arts of misrepresentation have been employed against them, beg leave to lay their case more at large before you; confidently assured that if their claims have not been favorably regarded, it has been because they were not truly understood.

Unacceptable as is the task of recounting one's own services and sufferings, your memorialists, nevertheless, on this occasion, feel it a sacred duty to themselves and families to vindicate their own conduct and motives, by a brief recurrence to some of the principal incidents of the war on the Niagara; and, in doing this, a just respect for the tribunal they are addressing will induce them to abstain from any animadversions on the conduct of those who have found it their interest to calumniate them.

Seven years before the war the Niagara frontier was a wilderness, inhabited only by savages. Soon after that period most of your memorialists commenced their settlements, which progressed with uncommon rapidity and success. At the commencement of the war the inhabitants had made extensive clearings on their farms, erected houses and made other valuable improvements; but, as is generally the case in that stage of a new settlement, most of them were, and still are, indebted for the original price of their lands. From the day, however, that war was announced until its final termination, your memorialists experienced, as regarded their pecuniary affairs, an uninterrupted series of loss and disaster. The Niagara river was the goal at which the contending armies met, as it were by mutual consent, to decide some of the most important events of the war. Its banks, only thirty-six miles in extent, were never, for ten days, in the *exclusive*, nor, for a moment, in the *quiet* possession of either party; and they literally presented a theatre on which were exhibited for three years together, nothing but successive scenes of daily alarm, of nightly watching—of skirmishes, battles, plunder and massacre.

Your memorialists might, by an early aban-

donment of their homes, have escaped many of the evils to which they were afterwards subjected; but they possessed too much pride, and, they humbly hope, too much principle, to desert the cause of their country so long as their services could render it any aid; they well knew, too, that the effect of such a desertion would only have been to throw back the calamities of a frontier settlement upon their interior neighbors, who were less compact, and would, of course, have presented a still feebler barrier to the encroachments of the enemy. They therefore choose to remain at their homes as long as they had the power to defend them; and they confidently assert that there was no equal portion of the population of the United States, who hazarded their property, or shed their blood, more freely than the inhabitants of the Niagara.

At the battle of Queenstown on the 13th of October 1812, a great proportion of the inhabitants of that frontier crossed the river as volunteers and partook of all the dangers and disasters of that unfortunate day. On the projected invasion of Canada, a short time after, by gen. Smyth, the inhabitants, almost to a man, obeyed his call and spent some time in camp in the most inclement season of the year, the effects of which were visited on them in that fatal epidemic that succeeded; which not only swept away a large proportion of their own population, but converted every house into a military hospital, filled during the winter with sick and dying soldiers of every description. The failure of that expedition will not be imputed to your memorialists, who had no participation in the councils that produced it, and whose expectations were not less disappointed in the result, than those of the public at large.

On the opening of the succeeding campaign, many of your memorialists again tendered their services to the commanding general, and were in the engagement which resulted in the capture of Fort George and Newark. When that fortress, garrisoned by the American army between four and five thousand strong, was subsequently invested by two thousand British troops, and the commanding general deemed it expedient to draw the whole of his force to its defence, leaving thirty miles of the frontier and a large amount of public property exposed to the inroads of the enemy, your memorialists again found it necessary to embody for their defence.

On the 11th of July of that year, a detachment of from 350 to 400 men were sent from the British army to capture the towns of Black Rock and Buffaloe, and destroy the public property deposited in them. They succeeded in making a landing at Black Rock but were promptly met by the volunteers of the Niagara frontier, about 100 militia from a neighboring county, and a few Indian warriors, in the whole, greatly inferior in numbers to the enemy, and repulsed, after a short and spirited action, with the loss of their commanding officer and nearly one hundred men; by which a large amount of public property at Buffaloe, and the whole of the provisions for commodore Perry's squadron and other property at Black Rock were saved to the United States.

Early in August three hundred volunteer inhabitants of the frontier, and two hundred Indian warriors assembled at Fort George on the invitation of general Boyd, who gave them assurances that with their assistance he would capture or disperse the British force then investing him. After spend-

ing several weeks in camp, repeatedly engaging the enemy's pickets, almost wholly unsupported by our regular troops, forcing and pursuing them with severe losses into the very heart of their works. After killing and capturing a great number of the enemy's Indians and dispersing the residue, by which our garrison was relieved from the frightful state of alarm into which it had been thrown by the daily massacres committed on our pickets; they were at length informed by general Boyd that he had received instructions from the government which did not permit him to leave his position for the purpose of attacking the enemy.

Scarcely had the volunteers retired under the weight of this disappointment, to their homes, when they were again called to Fort George by similar invitations and assurances from general Wilkinson, who had then taken command of the American army. This call, too, they obeyed with alacrity: but what was their surprise and mortification in being informed, on their arrival, that the whole regular army was about to embark on a distant expedition down the St. Lawrence—that no stroke was to be made at the enemy who lay only three miles from Fort George, uncovered by any works that could afford the least protection; encumbered with heavy baggage and crowded hospitals; and perfectly accessible by good roads and a level intervening country, and that the defence of Fort George and the Niagara frontier was to be entrusted to a few drafted militia under the command of gen. M'Clure.

The army departed. New systems of vigilance and defence were resorted to by your memorialists, and new incursions of the enemy repelled. Gen. M'Clure remained in Fort George until the 9th of the following December, when, the term of

service of his troops having expired, and being closely pressed by the same force which had held the American army in check, during the whole of the preceding summer, he dismantled the fort, discharged his troops, and on the evening of that day, in pursuance, as he declared, of an order from the secretary of war [for the terms of which we beg leave to refer to the records of the war office] set fire to the town of Newark, and evacuated the enemy's territory, leaving the whole Niagara frontier to be defended by about 40 militia volunteers, stationed at Lewiston and Manchester, and a garrison of about 300 men n Fort Niagara, most of whom were the invalids of gen. Harrison's army, and totally incapacitated to perform military duty.

The train of events which followed this extraordinary transaction is well known to your honorable body, and will long afford a subject of dismal recollection to your memorialists.

The British army, followed by a horde of savages, reeking with revenge for the chastisement they had recently received on the Thames, crossed the Niagara in the night, and from Lake Ontario to Manchester, a distance of 15 miles, nothing was spared which fire would consume, or the tomahawk destroy; and happy was the lot of the citizens, who literally pennyless and naked, had the good fortune to escape with their lives, to throw themselves on the charity of strangers. It is true that before Black Rock and Buffaloe were destroyed, large bodies of the neighbouring militia had hastily and promiscuously assembled for their defence; but unarmed, unprovided, and unorganised as they were, if they did not make all the resistance that was expected from their numbers, the frontier inhabitants at least have a melancholy proof in the long list of vic-

tims to that savage invasion, that they did not shrink from their duty.

Again, in the spring of 1814, two thirds at least of the inhabitants of the Niagara frontier capable of bearing arms, undismayed by the disasters of former years, and with no other occupation left them, but war, joined with that band of volunteers who crossed with the regular army into Canada, and participated their full share in all the battles of that memorable and bloody campaign.

Such has been the arduous, as well as disastrous, share which your memorialists have borne in the late war: a war undertaken for national objects, in which no part of the United States had less interest than themselves; but which, happily for the nation at large, has resulted in relieving our extensive commerce from the depredations and insults of almost every power that sailed the ocean, and restoring it to universal security and respect, and in raising our national character from degradation and contempt to military renown.

For the ordinary hardships and sufferings incident to a state of war, large as has been the portion of them allotted to your memorialists, they claim, as they have before intimated, no indemnification: but they do insist, upon every principle that defines the obligations of civilized society, they are intitled to renumeration for the losses sustained by the incursion of the enemy in December, 1813.

An apology is due from your memorialists to the President of the United States, for the freedom with which they undertake to state the motives which have influenced him in suspending the operation of the law of last session, as regards their claims, when those motives are only derived from common report. Such report, however, ascribes to the pre-

sident, as the ground on which he has suspended the allowance of their claims for buildings destroyed by the enemy, a belief that the inducement to the destruction of those buildings by the enemy, was retaliation for the burning of the British town of Newark by the American troops, and not the inducement contemplated in the said act as necessary to entitle the claimant to the benefit of its provisions.

While your memorialists frankly confess, that in their humble opinion, the principles and provisions of the act of last session are too narrow for the attainment of national justice, as applicable to the various events of the late war; yet they are content to rest their claim on the principles distinctly recognised in every section of that act.

Upon what principle, your memorialists would respectfully ask, has congress assumed to pay for buildings destroyed by the enemy, in consequence of their being in the military occupation of the U. States? Unquestionably upon the ground, that by such occupation the government has been indirectly (and certainly too, in most cases, innocently) instrumental in producing the loss. That a great portion of the buildings on the Niagara were in such occupation at the time of their destruction, is incontrovertibly true; and it is equally true that this circumstance was the motive for their destruction, if the uniform declarations of the British officers, by whose orders it was commited, are to be the evidence of their motives. But how, in point of principle, does your memorialists' case stand upon the allegation that the Niagara frontier was destroyed in retaliation for the burning of Newark?

On the 27th of May, the American army, 5000 strong, invade Canada, capture Fort George.

take possession of Newark, the principal town in the province, and subject and hold it under martial law for six months. Numerous incursions are made into the enemy's country, and in every instance more or less buildings, the private property of British subjects, are set on fire, and destroyed. Fort George is invested by two thousand British troops, inferior by more than one half to the American garrison, who make no effort to capture or destroy them. In September, the American army is withdrawn, and Fort George committed to the defence of 1000 drafted militia. On the 9th of December, the service of these militia determines, and no provision is made by the government for replacing them. In the meantime a letter is received by the commanding officer, from the secretary of war, advising, if not absolutely ordering the burning of the town of Newark. The inhabitants of the Niagara, deprecating the consequences of this extraordinary measure, interposed their prayers and entreaties to arrest its execution; but it is a military order. an advice (call it which you please) coming from the commander in chief of the U. States, and could not be disregarded by a subordinate officer. Newark is burnt — Fort George evacuated —The troops discharged. Scarcely the shadow of military resistance retained; and not only the property and protection of the citizens abandoned, but at least a half a million of dollars worth of public property is left as a bait to the cupidity or revenge of the enemy.

Your memorialists feel no inclination to controvert the right of the American government to destroy the town of Newark, or to vindicate the enemy in the conflagration of the Niagara frontier, either upon the ground assumed in regard to New-

ark, that the measure would contribute to the safety of the British positions, or upon the ground that it was justified by the principles of retaliation for that act: much less are they disposed to offer any palliation for the inhuman barbarities inflicted upon the persons of the defenceless inhabitants: but they may nevertheless be permitted to appeal to the candour of every member of your honorable body, whether, making reasonable allowance for the passions of men engaged in deadly conflict with each other, and for the prejudices with which every question arising between them will be viewed, it was not to be expected that the destruction of the town of Newark would furnish an irresistable motive as well as pretext for the destruction of the American towns on the opposite shore; and especially when no adequate force was interposed for its prevention?

If, then, the destruction of the Niagara frontier was in truth an act of retaliation for the burning of Newark, has not the government, through its constituted authorities, been instrumental in producing the losses of your memorialists? and ought they not upon the great principle upon which the law of the 9th of April last is bottomed, to be indemnified?

If your memorialists claims required any other arguments than what are found in their intrinsic justice, they might well refer to the more enlarged principles of national policy for their support.

The strength of every nation will always mainly depend on the patriotic devotion of its people to their common country: and where, we may ask, are we to look for the foundations of that patriotism, that sacred love of country, which attaches and binds each citizen to his fellow citizen? Is it not to be traced exclusively to that community of

interest, that identity of fortune, and that consequent sympathy of feeling, to which we are destined by the operation of our political and civil institutions? And wherein, we may again ask, consists the characteristic excellence of a republic, which alone distinguishes it from other governments, and gives to republican patriotism such peculiar force and character, if not in the only circumstance that it metes its blessings and its burthens, with a more equal hand, to every class of citizens, and will not permit one human being to toil, to suffer and be oppressed, to gratify the pride, ambition or avarice of another?

Apply these sacred principles of union and equality to a state of public war, which of all political operations requires most the single and undivided energy of will and action of a nation, and what does policy dictate?

Does it not admonish us to unite, consolidate, and, as far as possible, identify the interests of the whole people, and by thus producing an extended sensibility to give individuality and energy to national feeling and exertion? Or, does it, on the contrary, dictate to us to break asunder the ties and obligations which bind us to each other in time of peace, to set afloat the elements of disunion and avarice, and to convert what ought to be a great and united effort against a common enemy for national right and principle, into a disgraceful squabble for property amongst ourselves?

What would not be the ruinous consequences of that piratical policy which places every man at war with his fellow man? Would not interest influence those whose local situation secures them from the accidents of war, to seek pretexts for war, the effects of which would be to double the prices of

their produce and manufactures? And would not the frontier and exposed citizens resist even a just war which is to be carried on at their exclusive hazard? Or, if forced into it, would they not compound with the enemy for that protection and indemnity which their own government refuses them? And if it be true, as we have been instructed to believe, that protection and allegiance are reciprocal and dependant duties between the government and the governed, where would be the breach of civil or moral obligation in withdrawing the one after the other had been abandoned?

But why should your memorialists be driven to the necessity of appealing to considerations of policy in support of an eternal and unquestionable principle of equity daily and hourly recognized in every court of justice, in every state in the union and in every country on the globe, that all associations of individuals are bound to contribute in proportion to their respective interests, to the expenses and losses incident to the promotion of an object undertaken by common consent and for common benefit.

That this principle is applicable to a nation in regard to the losses incurred by its subjects in the prosecution of a public war, and ought to be enforced when within the reach of the public revenue, is admitted even by the European writers on public law, and sanctioned by the practice of European governments.

Great Britain in adjusting the claims of *her* subjects for losses sustained during the late war with the U. States, has not even adopted the principle which we have some where heard advanced, *that losses occasioned by the wantonness of an enemy ought not to be indemnified.*—A principle

which would have held an impotent, insulated British subject bound for the good behavior of the government of the U. States. She probably deemed it quite as much the duty of the British government itself as of a poor and powerless Canadian farmer, to correct the manners and morals of the American people; and to compel their armies to be regardful of the principles of civilized warfare.—At any rate the British government has, low and depressed as is the state of its finances, assumed to pay all losses of its Canadian subjects, occasioned by the depredations and burnings of the American troops, without enquiry into the motives that influenced them. And shall it be said that the American government, with a surplus revenue of nine millions of dollars per year, is unable, or unwilling to spare ten or twelve hundred thousand, (the *maximum* extent, as we are informed, of all claims for losses in the U. States) to compensate those who have fought, bled, and suffered, to produce this extraordinary exuberance of the public treasury, and to exalt this nation to its present high and palmy state?

In calling the attention of your honorable body to the fact that the ninth section only of the act of the last session is suspended, while all the other sections are in operation; far from us be the wish to prejudice the claims arising under those sections. On the contrary we believe them most righteous; and while we rejoice in seeing justice done to a meritorious class of our fellow citizens, we cannot refrain from remarking, in support of our own claims, that we can discover no difference between the cases of a *horse*, a *waggon*, or a *house*, lost in consequence of their being in the public service, except in the amount of the loss. Could your memorial-

ists believe that the merit of a claim was to be measured by the smallness of its amount, and that an individual was to be preferred because he had lost but little; then, indeed, would they consider their case as a deplorable one—*for they have lost their all.*

In the full confidence that your honorable body will provide for the renewed and just operation of the law of the last session, upon the principles which induced its original passage; or that you will adopt some other and adequate provision for their case, your memorialists, as in duty bound, will ever pray, &c.

MEMORIAL from BUFFALOE.

To the honorable, the senate and house of representatives of the United States of America, in congress assembled,

The memorial of the undersigned sundry inhabitants of the town of Buffalo, in the county of Niagara, and state of New York, respectfully showeth,

That during the late war waged with Great Britain, no part of the United States more strenuously supported the American cause, at the hazard of their lives and fortunes of its citizens, or more severely suffered from the evils of war, than the inhabitants of the Niagara frontier. At the battle of Queenstown heights, at the expedition to the Beaver dams, and during the glorious campaign of 1814, the militia of the state of Newyork, principally collected from that frontier, volunteered their services, and discarding all constitutional scruples, crossed the lines into Canada, in support of the rights and honor of their country. Before, and at the commencement of the war, no part of the United States was more flourishing and prosperous; but in the unfortunate winter of 1813 and 1814, in consequence of the withdrawal of the American forces for the defence of Sacket's harbor, the settlers on the Niagara river were exposed to the collected fury of the enemy, their houses destroyed, and the fortune of many completely swept away. The circumstances which attended this event, as they form the groundwork of this petition, your memorialists beg leave to submit to the consideration of your honorable body.

During the principal part of the year 1812, and at several periods in 1813, the American force stationed on the river Niagara occupied the private houses of the inhabitants by the orders of the commanding officers: even while our chief force was stationed in Canada, a large guard was constantly stationed at Buffaloe. On the 16th of November, 1813, Gen. Harrison, with the main body of the army, left the Niagara frontier almost defenceless, and embarked for Sacket's harbour, leaving a small force, consisting principally of militia, at Fort George, under the command of Gen. M'Clure. About the 9th of December the term of service of the militia expired, and as Gen. M'Clure was then threatened by a superior force of the enemy, commanded by gen. Drummond, and Fort George, with so small a garrison, was incapable of standing a siege; the fort was evacuated, and the town of Newark destroyed.

For the destruction of this town the American general relies, for his justification, on an order which had been given by gen. Armstrong, then secretary of war, as early as the 4th of October, 1813, to the officer commanding at Fort George, to burn Newark, and the necessity of that step for the protection of the American frontier. After the evacuation of Fort George the American troops were directed to take up their quarters in the private buildings of the inhabitants, and when the committee of safety of the town of Buffalo remonstrated with Gen. M'Clure against the occupation of the town, and stated their apprehension that in consequence of such occupation it would be destroyed by the enemy then superior in force; he pledged his honor that the government of the U. S. would indemnify the inhabitants for any loss they might sustain, in

consequence of its being in the military occupancy of the U. States; and he advised accordingly the inhabitants to give up their houses peaceably to the troops.

Soon after the evacuation of Fort George, gen. Drummond, who had been considerably reinforced, arrived there, and on the 19th day of December, a large party of the enemy crossed Niagara, in the night, and surprised the American fort. About the same time, the enemy burnt several houses in Youngstown, Lewistown, Manchester, and on the road between those places, and plundered a large quantity of property. It has been satisfactorily proved, and the point is susceptible of corroboration, by the most unquestionable testimony, that the reason avowed, at that time, by every British officer, for the destruction of these buildings, was the shelter they furnished to our troops, the constant occupation of them as military deposits, and the protection that would be given to their frontier, by the destruction of them; that the reason alleged for the plunder of private property, was its destination for public purposes, or its intermixture with public property, to such a degree, that no discrimination could be made. At the town of Manchester several houses, which were not liable to these objections, were left standing after this incursion.

After the capture of Fort Niagara, Maj.-gen. Hall, on or about the 25th day of December, took command of the American forces in that quarter, and having then about 3000 militia under his command, issued orders to his several officers to quarter themselves, and their men, in the private houses at Buffalo, Black Rock, and the vicinity. Similar orders were, about the same time, issued by

brig. gen. Hopkins. In pursuance of these orders the principal part of the buildings in those towns were taken possession of by the American troops, without the consent, and often without the previous knowledge of the owners. Arms and other munitions of war were stored in different houses: many of them were occupied as laboratories, and the whole town of Buffaloe exhibited the appearance of a military cantonment. Such was its state when the British army under the command of gen. Rial crossed the Niagara at Black Rock, on the 30th of December 1813. A battle ensued which terminated in the retreat of our troops. On the enemy's approach towards Buffaloe, some skirmishing took place, and although the firing continued yet after the retreat of the principal part of our force, all resistance had become unavailing. It was therefore recommended to col. Chapin, one of the inhabitants, by the trustees of the town, to offer terms of capitulation, Accordingly col. Chapin met the enemy with a flag—the British troops were halted, and soon after articles of capitulation were agreed on and signed by gen. Rial on the part of the enemy, and by col. Chapin on the part of the town. By these articles it was expressly stipulated, that private property should be respected, public property surrendered, and all spirituous liquors destroyed to prevent the excesses which the Indians, if they became intoxicated, might commit.—On the entrance of the enemy into Buffaloe a guard was stationed round several private buildings by the orders of gen. Rial and his officers, and others were directed to be burnt in consequence of the obvious and long continued occupation of them by the United States as store houses or as barracks. The next day an examination of every house was

made in search of public property, and it resulted in the discovery that the principal part of the buildings in the town had been devoted to military purposes, and had been employed either for the accommodation of our troops, or as laboratories, or as receptacles for munitions of war. The destruction of the chief part of the town was therefore resolved on and fatally accomplished.

Your memorialists respectfully submit to your honorable body, that it is satisfactorily proved by the repeated declarations of gen Rial himself and the several officers who accompanied him, that the above recited circumstances were the sole motives that actuated the enemy in the destruction of Buffaloe. The same point is also proved by the fact that several houses in the vicinity were left uninjured, to which the above objections did not apply, and that other houses were selected for destruction which were at some distance from the enemy's line of march, and parties sent to destroy them on information being received that they contained public property. The execution of the articles of capitulation likewise furnishes conclusive evidence that it was not the original intention of the enemy to cause an indiscriminate conflagration.

Your memorialists will forbear from enlarging on the scene of distress and desolation that was exhibited on the Niagara frontier, after these dreadful incursions. They were driven from their homes, in the most inclement season of the year, deprived of the means of subsistence for a time, and left dependant on the charity of a distant neighbourhood for a shelter. Many of your memorialists lost their all, the fruits of many year's industry, and are now struggling with poverty and want. But they trusted that the Congress of the United

States would indemnify them for their losses, whenever the pressure of the war should pass away, and their claims could be properly exhibited. On the passage of the act, entitled, "An act to authorise the payment for property lost, captured or destroyed by the enemy, while in the military service of the United States, and for other purposes," passed on the 9th day of April, 1816, your memorialists believed that their claims were embraced by the 9th sect. of that act. They accordingly sent on to the commissioner appointed by virtue thereof, a statement of their respective losses, upon which commissions were directed to the most competent and respectable persons on the frontier, to take testimony in relation to their claims. The testimony when taken was duly returned to the commissioner of claims. It clearly established the facts above stated, respecting the destruction of Buffalo; and your memorialists beg leave to refer to a copy of the general testimony on their cases hereunto annexed, as substantiating their statements. It also proves the several points, which bring their claims within the act, 1st, The occupation of their houses as military deposites, under the authority of an agent or officer of the U. S. and 2dly, The destruction of them by the enemy, in consequence of such occupation. Upon these considerations the commissioner appointed under the act allowed several of the claims of the inhabitants of Buffalo, and indemnification was awarded to the claimants. But before a decision was given on the claims of your memorialists, an order was sent to him from the acting secretary of war, to suspend all further decisions under the 9th sect. of the said act until further advised. Since this order their claims have been unnoticed, and as no additional

instructions have been sent to the commissioner relative to the claims arising under the said section; and your memorialists are ignorant of the particular grounds from which this order of suspension originated, they are compelled to apply to your honorable body for redress.

From the known justice and liberality of your honorable body they confidently trust that upon the proof of the above statements an act will be passed to give operation to the former act, and to grant the indemnification they require. The British government has indemnified its subjects for the losses they sustained by the destruction of Newark. Your memorialists have an equal claim for indemnification on *their* government. Every motive of policy appears to require that the inhabitants on both sides of the Niagara should be placed on an equal footing: though the patriotism of your memorialists can not be affected by such considerations, yet they hope it will be proved that the citizens of the free republic are as much the objects of consideration to their government as British subjects to the king of Great Britain.

Your petitioners have heard no objections advanced against their claims, except the wantonness of the enemy in desolating the Niagara frontier, and the allegation contained in the proclamation of the then governor of Quebec, that the devastation of the American frontier was committed in retaliation for the destruction of Newark. As to the first objection your memorialists will not, though they might, enquire whether the desolation of the American frontier was, or was not, justifiable by the laws of civilized warfare, and whether it did or did not operate to the advantage of the enemy. But they cannot avoid thinking that the more wanton

the act of the enemy the stronger would be their claims on the liberality of the government, and that the pressure of a war ought, as far as possible, to be equally borne by the citizens of a free republic. As to the other objection arising from the proclamation of sir George Prevost, your memorialists may truly assert that there was as much ground in point of military policy for the destruction of Buffalo and Lewistown, by the enemy, as for the destruction of Newark by our troops, and the same motives that actuated the one produced the other. Your memorialists are further confirmed in the belief that considerations of military policy caused the devastation of those towns from a comparison of the date of the events. When the buildings in Lewistown, Youngstown and Manchester were destroyed, the governor of Canada. at Quebec, could not have heard of the destruction of Newark. A part only of Manchester was destroyed during the incursion of the 19th December, and if a spirit of retaliation had caused the devastation on that occasion, we must presume that that spirit was then satiated; or otherwise, the whole town would have been laid in ruins. It could not have thirsted ten days after for further vengeance, and extended itself to the towns of Buffalo and Black Rock. The articles however, of capitulation, and the declarations of gen. Rial and his officers, furnish a complete answer to this objection, and a better evidence of their motives of action than the proclamation of a distant officer. Your memorialists therefore pray that your honorable body will take their claims into consideration, and grant them such relief as their case requires. And, as in duty bound, they will ever pray, &c.

TESTIMONY.

Copy of testimony taken under a commission issued to Daniel Rapine, and applicable to the case of ————————

Washington County,
District of Columbia. } ss.

Be it remembered, that on the 20th day of August, in the the year eighteen hundred and sixteen, before me the subscriber, appointed by virtue of the accompanying commission, a commissioner to take testimony in the case of William Hodges and others, claimants at Buffalo, under the act of Congress of April 9th last, personally appeared colonel Cyrenius Chapin, and being sworn in due form of law, deposed and said, that this deponent was at Buffalo, in the state of New York, at the time the enemy landed on the American shore near Black Rock, on the night of the 29th of December, 1813, that on the landing of the second party of the enemy at day light of the 30th of December, this deponent was at Black Rock; on the same morning a battle took place between the United States' troops and the enemy, and on the flight of the former the enemy marched to Buffalo, without committing any depredations on the houses and property on their way. On their approach to Buffalo, a skirmish took place, but the carriage of a cannon, on which the militia principally relied for defence, giving way, this deponent was requested by the trustees of the town of Buffalo to meet the enemy with a flag, and to offer to capitulate. This deponent went out with a flag accordingly, and met the enemy, and, after a short conference, articles of capitulation were agreed on, reduced to writing, and executed, and it was thereby stipulated that private property and private persons should not be molested or injured; these articles of capitulation were signed by general Rial and the deponent, and the original was left with deponent, and remained in his hands until after he was unjustly made prisoner and carried over into Canada, when he sent it to general Prevost, as it was necessary to obtain his discharge, since which time the instrument has never been in deponent's possession. After the capitulation, the enemy entered Buffalo, and stationed a guard before the houses of the deponent, and of Ebenezer Walden, Ralph M. Pomeroy, Pratt and Leach, Lewis Lea Cauteaux, Stocking

and Bull, Coit and Townsend, Storrs and Caryls, and some others which deponent does not remember, for the purpose of protecting the said houses, and none of the abovementioned houses were burnt until the first of January at midnight. Soon after the entrance of the enemy into the town, they set fire to several houses; among others to the houses of Elias Ranson, James Baird, Oliver Forward, Asa Fox, Henry Kitchen, widow Atkins, widow St. John, several houses belonging to Gilman Folson, Luke Draper, widow Pratt, Grant's store, and several others not recollected. As soon as they commenced firing these buildings, the deponent remonstrated with general Rial on this flagrant violation of the terms of the capitulation, and his reply was, that the houses he set on fire were places of public deposit, occupied and appropriated to the use of our army, which was not protected by the terms of the capitulation. This deponent then complained of the court house being set on fire, and general Rial immediately ordered a party of men to go and extinguish it; they had commenced putting it out, and had nearly extinguished it, when general Rial having been informed that it had been used as a barrack for American troops, ordered it finally to be burnt. This deponent knows that the house of Elias Ranson had been used and occupied as a barrack for American troops for several months before, and his barn for their horses; the house of William Baird had been used as a store house for public property above twelve months; Oliver Forward's had been used that day as a laboratory, and had long been used as a barracks for our troops; the houses of Asa Fox and Henry Kitchen, had been employed as barracks for about ten days before; in widow Atkins' house there was a quantity of powder, and both her house and that of the widow St. Johns had been constantly used for some length of time as barracks; and most of Gilman Folson's houses were occupied as barracks, and some as laboratories, containing powder; Grant's store had long been made use of as a place of deposit for military stores; widow Pratt's house was used as a barracks, and Luke Draper's house had also been made use of as a barracks, but latterly it had been made use of as a laboratory; the principal part of the houses that were destroyed, in fact, on the 30th of December, had been and then were more or less in the use and occupancy of the public, and of American troops. This deponent was made a prisoner by the enemy on the 30th of December, and was carried across the Niagara, and was not on the American shore till five months after, when he was released, but though a prisoner he

had reason to believe that no houses were burnt in Buffalo on the 31st of December, as he might have seen the flames, nor has he ever heard that any houses were burnt that day. On the first of January this deponent was sent into the country as a prisoner, and did not know of the destruction of the other houses in the town on that day until his arrival at Montreal, when general De Rottenburgh, sir Sidney Beckworth, and major Loring informed this deponent of the destruction of this deponent's house and other buildings, and gave as a reason that on examination they found that they contained public property, and were used as military deposits, and that they would not otherwise have been burnt. Major Loring also informed this deponent that he commanded the party that burnt William Hodges' house, which they were informed by some good friend of theirs contained public property, which they found to be the case: this was the reason given for the destruction of all the houses in Buffalo. This deponent knows that William Hodges' house had been occupied for some time before by United States' troops, and also contained a large quantity of arms and ammunition; that this deponent's house also contained a large quantity of arms and ammunition and naval stores, and troops were stationed in the small buildings; that in the shop there was a quantity of powder, arms, and fixed ammunition; that Ebenezer Walden's house contained arms, and that the barn was occupied by the quarter master as a deposit for forage. The cause of the destruction of Pomeroy's house, as this deponent understood, was the quartering of troops there, and a box of swords being found there. Pratt and Leaches' house had been long used as a barracks; Stocking and Bull's and Coit and Townsend's houses had been used for some time as barracks; Storrs and Caryl's house had been long used as a public store house; that there were between two and three thousand militia stationed at Buffalo when the enemy landed, as above mentioned, and were ordered by general Hall, as they arrived, to quarter themselves in the houses of the town, which order was executed by major Camp; the United States had no store houses or barracks but what were the property of private individuals; that the certificate and depositions purporting to be in the hand writing of general Hall is his hand writing; and that this deponent does not know of any agreement being entered into by the United States' officers with the owners of houses respecting the occupation of them, and that in most instances the owners of the houses were compelled, against their wishes, to receive troops and public stores into

their houses, and in spite of their objections thereto, (and among others Townsend and Coit, Stocking and Bull) as it was attended with great inconvenience and loss to the inhabitants; that this deponent is not directly nor indirectly interested in the establishment of any of the claims founded on the destruction of property by the enemy at Buffalo, except his own claim for property so destroyed. William Hodges' house was not within the limits of the corporation of Buffalo, nor was this deponent's barn, (which had been used for two years at least as the principal arsenal in that quarter) within the limits of the corporation of Buffalo.

CYRENIUS CHAPIN.

Sworn to and subscribed, this 20th day of August, before me,
DANIEL RAPINE.

And now, at the same time, personally appears Claudius V. Boughton, and deposeth and saith, that this deponent was at Black Rock on the night of the 29th of December, 1813, when the enemy landed there; a battle took place between the United States' troops and the enemy immediately after landing; about day-light of the 30th they advanced on Buffalo, at which place a fight took place, and this deponent understood from common report that a capitulation had been entered into between the citizens of Buffalo and the British, stipulating that private property and private persons should be respected; that this deponent was not at Buffalo when the enemy entered that place, but saw the smoke of the burning houses on the 30th of December and 1st of January, no houses having been burnt on the 31st of December. The militia stationed at Buffalo previous to the battle amounted to at least two thousand men, and they were quartered in the private buildings of the town, there being no public barracks in the vicinity; that this deponent knows that the small houses of col. Chapin, and the houses of Asa Fox, Gilman Folson, Elias Ranson, and many others, were occupied by the troops; that col. Chapin's main house contained a quantity of stores belonging to the public, and that it was so difficult to find quarters in the town for the troops, from the houses being full, that one squadron of cavalry of the twelfth regiment was ordered four miles out of town to the house of widow Atkins for quarters; that the house of William Hodges, situated on the Batavia road, two miles from Buffalo, was occupied at the time of the destruction of Buffalo, by one company of cavalry of the twelfth regiment, commanded by captain Wilson, and had been occupied

by that company for several days; that this deponent acted as adjutant of cavalry, and detached a number of men on duty from William Hodges' house, on the 29th of December, by order of major general Hall; that this deponent has understood from report that the said house was then used and had for some time before been used as a deposit for public property; that the said house of William Hodges was not destroyed by the enemy until the first of January, 1814, and was then destroyed by a small detachment of the enemy, not exceeding a dozen in number, while the main body was returning from Buffalo, the main body never having come up the road to Batavia; that in most instances this deponent knows that the owners of houses at Buffalo were compelled to receive public stores and troops into their houses against their wishes, and in spite of their objections thereto, but as this deponent did not know who were the owners of the houses he cannot specify those who were compelled; that this deponent heard col. Segmour Boughton, who commanded deponent's regiment and was killed between Buffalo and Black Rock, to quarter his troops in such houses and barns in the town as he could find unoccupied; that the deponent, with col. Boughton and several other officers and about 100 or 150 soldiers, took possession of Elias Ranson's house, and Elias Ranson's family were compelled to retire into the kitchen; that this deponent is not directly or indirectly interested in the establishment of any of the claims founded on the destruction of property by the enemy at Buffalo; and the said deponent further saith, that he is not directly or indirectly interested in part of any of the claims from the town or village of Buffalo.

CLAUDIUS V. BOUGHTON.

Examined, subscribed and sworn, this 22d day of August, 1816, before me, DANIEL RAPINE.

Be it remembered, that on this 20th day of August, eighteen hundred and sixteen, before me the subscriber, appointed by virtue of the accompanying commission, a commissioner to take testimony in the case of William Hodges and other claimants at Buffalo, under the act of congress of April ninth last, personally appeared major John G. Camp, and being duly sworn, deposed and said, that he was assistant deputy quarter master general in the United States' service at Buffalo, on the 29th of December, 1813, and in the command of that department; that this deponent accompanied the advance guard of the American army, under the command of colonel Cyrenius

Chapin, when the enemy landed; that this advance guard marched down below Black Rock to a battery near Congoquetta creek, where they encountered the enemy, who drove them back upon the main body of the American army, then at Black Rock, under the command of major general Hall; on the morning of the 30th of December, at day light, the principal force of the enemy crossed the Niagara, in open boats, under the cover of their artillery planted on the opposite shore, and were met by the American army on their landing; a battle ensued, in which the American troops were compelled to fall back upon Buffalo, where some skirmishing took place; the principal part of the American forces soon retreated, and left the village of Buffalo defenceless; the firing, however, continued (after the retreat of the main body of the American army) from two pieces of artillery planted on an eminence in the village of Buffalo, until the principal piece was dismounted, and the enemy had approached too near to give time to remount it; all hopes of being able to defend the town, after this accident, having vanished, colonel Chapin, at the request of the trustees of Buffalo, in which request the deponent, being the only United States' officer of the regular army then present, concurred, went to the British advance with a flag, for the purpose of obtaining terms from the enemy; this deponent remained at Buffalo until colonel Chapin's return, whom he met holding a paper in his hands, which deponent understood from colonel Chapin to be the terms of capitulation, which guaranteed the safety of private property and private persons; deponent was prevented from reading the articles of capitulation by the rapid approach of the enemy, who were then within half pistol shot, the enemy having got possession of the eastern road; deponent retreated with about twenty men up Lake Erie; the enemy took possession of the town of Buffalo, at about ten o'clock in the morning, and burnt from four to five houses on their entrance, and in the course of the day several more, all of which contained munitions of war, and were barracks of United States' troops; on the first of January, they burnt the principal part of the buildings in the town, and at night recrossed the Niagara; about a week or ten days after this deponent met lieutenant Connell, of the 41st or 49th British infantry, bearing a flag to Black Rock; deponent entered into conversation with said Connell on the subject of the conduct of the British army at Buffalo, in which deponent charged the British with having violated the articles of capitulation, which said Connell denied, and declared that he knew very well what

the articles of capitulation were; that the British were bound by them to respect private property and private persons only; that on entering the town of Buffalo the orders given to the British troops were in conformity to the articles of capitulation, namely, " to respect private property and private persons;" that they (the British) found the town of Buffalo to be a military cantonment, in consequence of which it was destroyed, and that they had destroyed nothing which they were not justified in destroying both by the usages of war and the terms of capitulation; this deponent further states that he was present at an interview between the committee of safety of the town of Buffalo and general M'Clure, on or about the 20th of December, 1813, when said committee remonstrated on behalf of the inhabitants of said town against his (the general's) occupying the said town with his troops, and stated that they had reason to apprehend the destruction of their property by the enemy, should they ever obtain possession of the town, in consequence of its being in the military occupancy of the United States, to which general M'Clure replied, that he would pledge his honor that the government of the United States would indemnify the inhabitants of Buffalo for any losses which they might sustain in consequence of its being in the military occupancy of the United States, and advised them to give up their houses peaceably; and this deponent states further, that the town of Buffalo was, in fact, a military cantonment at the time of its destruction by the enemy, and had been so for some time before; that during the whole war one part or other of the town was constantly in the military occupancy of the United States; that at the time of its destruction by the enemy from 2500 to 3000 United States' troops were quartered at Buffalo by order of major general Hall, the commanding general, and public property, as this deponent verily believes, to the amount of one hundred thousand dollars at the least, was deposited in said town in different houses; and this deponent further states that the following are the names of some of the persons whose buildings in the town of Buffalo were occupied by the United States as barracks for soldiers, or as deposits for military stores, viz: Joseph Landon, Zenos Barker, Juba Storrs & co. Lewis Le Cautauex, David Rees, Timothy M'Keowin, Vincent Grant, John Brunson, Ralph Pomeroy, Reuben B. Heacok, widow Grovenor, Seth Grovenor, Martin Daly, Stocking and Bull, Ebenezer Walden, Joshua Lovejoy, Oziel Smith, Robert Cain, Ira Dickenson, Messrs. Campbell, Mr. Gilbert, blacksmith, Joshua Gillet, Nor-

ton and Davis, Raphael Cook, Smith H. Salisbury, Amos Callender, Towsend and Coit, Oliver Forward, Cyrenius Chapin, Gilman Folson, Eli Hart, Luke Draper, Mary Atkins, Sylvia Holmes, Mr. Stow, cabinet maker, Storrs and Caryls, Benjamin Caryls, Herman B. Potter, William Caird, Margaret St. John, Jude Atwater, James Chapin, Elias Ranson, Elisha Ensign, Ebenezer Johnson, John Root, Henry Kitchen, James Edsall, and William Hodge; and this deponent further saith, that all the houses in the village of Buffalo destroyed by the enemy were in the military occupancy of the United States, and that the enemy passed a number of houses which were not in the military occupancy of the United States, and proceeded to the house of Willam Hodges, (which is about two miles distant from the village of Buffalo) which was in the military occupancy of the United States, and destroyed the same; said deponent further states, that he is not directly or indirectly interested in the event of any claim or claims from the town or village of Buffalo.

JOHN G. CAMP.

Sworn to and subscribed, this 20th day of August, 1816, before me, DANIEL RAPINE.

Washington, January 20th, 1817.

I certify that, from the commencement of the late war between the United States and Great Britain until the destruction of the Niagara frontier, I passed most of my time on that frontier, and was in the habit of frequently visiting the whole of the American line from Buffaloe to Fort Niagara. During this period large bodies of troops, averaging probably 3,000 men, were quartered along this line; and from the almost total want of public buildings for military purposes, the private buildings of the inhabitants were converted to public uses. So general was this public occupation, that on careful reflection, I cannot at this time, recollect a single building from Buffaloe to Niagara inclusive, fitted either for a store house, hospital, quarters for officers or barracks for men, which was not during some portion of the above period, used principally, if not exclusively, for one or more of the above purposes. This universal occupation was not continued throughout the whole of the above period, but varied with the various fluctuations of the army from one part of the line to another, occasioned by the movements of the enemy, or the military objects of our own generals.

During the fall of 1812, the attention of the American

commanders, was engaged in operations against the enemy; and, at the close of that campaign on the first of December, an army of near 5000 men was found, in an inhospitable climate, an inclement season, without quarters, and assailed by a deadly disease. It became indispensible, therefore, to the preservation of the lives of the men, that the buildings of the citizens should be occupied for sheltering the troops; and during that winter the whole Niagara frontier assumed the appearance of a military cantonment. This occupation continued very general until about the first of the succeeding May, when the troops left their winter quarters and proceeded to the attack of Fort George. During the summer of 1813, the villages of Buffaloe and Black Rock, on the southern part of the frontier were considerably relieved, having comparatively but few troops quartered in them, but most of the buildings to the northern part of the frontier, from the falls to Fort Niagara still continued in public occupation. The army was principally at Fort George; but the sick and wounded with their attendants, several guards of Infantry, and a considerable part of the cavalry were still quartered on the American side, and were distributed among the houses, barns and other buildings from Lake Ontario to the falls. I frequently passed up and down the river in the course of that summer and fall, and there was scarcely a building that had not the appearance of being occupied by the military. I left the frontier about the middle of December 1813, and therefore cannot speak from my own knowledge, of the extent of the military occupation at the time of the invasion by the enemy.

PETER B. PORTER.

Washington County, ss.

On this 21st. day of January 1817, before me appears Peter B. Porter, and made oath in due form, that all the matters and things contained in the above and foregoing writing by him subscribed are true to the best of his belief.

DANL. RAPINE.

Be it remembered, that on this thirteenth day of November, in the year 1816, before me, Daniel Rapine, appointed by virtue of the accompanying commission, to collect testimony on the claims of William Hodge; personally appeared George M'Clure, and being sworn in due form of law deposed and said: that in the fall of 1813, this deponent commanded the American troops on the Niagara frontier, after the departure of General Wilkinson to Sacket's Harbour with the

main body of the army, that it was the first intention of this deponent on hearing that a large force under Gen. Drummond was approaching, to defend Fort George; and in pursuance of the advice of his council of war, that he laid before the said council, a letter of General Armstrong, of which the following is a copy:

War Department, 9th October 1813.

SIR—Understanding that the defence of the post committed to your charge, may render it proper to destroy the town of N. A. you are hereby directed to apprise its inhabitants of this circumstance, and invite them to remove themselves and their effects to some place of greater safety. I am sir, very respectfully, your most obedient servant,

JOHN ARMSTRONG.

The officer commanding at Fort George, Upper Canada.

That the said council deemed it necessary that New Ark should be destroyed, not only for the defence of Fort George, but also that of Niagara, and the other military posts on the American side of the straights; in pursuance of the authority contained in said letter, the said town was set on fire and burnt after the inhabitants had been duly apprised and requested to remove themselves and property. About the time of the execution of this order it was the unanimous opinion of the said council of war, that the American force could not stand a siege in Fort George; because the time of service of the drafted militia had expired, and no advices of a reinforcement, or others to supply their places, and accordingly the said Fort was evacuated on or about the first week in December 1813, and the American troops crossed the river Niagara. On their arrival on the American side, this deponent ordered the few troops that remained with him to quarter themselves at Lewistown, Manchester and Buffaloe. Many of the houses in Youngstown were then, and had previously been occupied by our troops as an hospital, and this deponent knows that his troops did quarter themselves in different private buildings in Lewistown and Buffaloe; that a large quantity of arms; ammunitions, provisions, &c. destined for the use of the army, were more or less deposited in private buildings, in Lewistown and Buffaloe. That this deponent remembers that a deputation of the inhabitants of Buffaloe waited on him in consequence of the occupation of Buffaloe by the American troops, and expressed an apprehension that the town would be distroyed by the enemy in consequence of such occupation, and

this deponent recollects, that he told the inhabitants that his troops must be accommodated, and he expressed a belief that government would indemnify them for any losses that such military occupation might occasion, and that during a good part of the fall of 1813, the private buildings in the aforesaid towns on the Niagara river were occupied by the American troops in the service of the United States.

That he verily believes the consequence of destroying the towns on the Niagara river was to show the station of the American troops a considerable distance from the river; and it is this deponents belief that the enemy would have destroyed the American towns on the river long previous to the destruction of New Ark, if they had had them in their power, with a view of protecting their own frontier. And this deponent further states that necessity compelled him to quarter part of his troops in the villages aforesaid in consequence of a great deficiency of tents, and the inclemency of the season, as well as for the purpose of protecting the military deposited there: and further this deponent saith not.

GEO. M'CLURE.

Sworn and subscribed before me,

DANIEL RAPINE.

District of Columbia,
Washington County.

Be it remembered, that on this 14th day of January, in the year of our Lord one thousand eight hundred and seventeen, before me the subscriber, appointed, by virtue of the accompanying commission, a commissioner to take testimony in the case of Pliny A. File and others, of the Niagara frontier, claimants under the act of Congress of April ninth last, and a justice of the peace, colonel Samuel Lane, commissioner of the public buildings at Washington, who, being sworn in due form of law, deposeth and saith, that he arrived at Buffalo on the 12th of September, 1812, with Winder's regiment, to which he belonged, and Gibson's corps of artillery; on his arrival there, he found the New York militia, under the command of major general Hall, dispersed, some in houses, some in tents. In December, 1812, this deponent, together with the 14th and 23th regiments, under the command of general Winder, were ordered by the commanding general to take possession of the houses in Black Rock, necessary for their accommodation: and in the course of the winter, the accession to our force at that point made it indispensable to place troops in almost every house of Black Rock, together with their camp equipage, fixed

ammunition, and the stores pertaining to them: in a word, the munitions of war, with which the army was furnished, were generally secured in houses. The fixed ammunition and camp equipage, belonging to the men under this deponent's command, were necessarily housed with them, there being no magazine or arsenal. This deponent held the command at Black Rock during the months of January and February of the fore mentioned period, and deemed it essential to the preservation of the troops at that season of the year, and also to the safety of the munitions of war with which they were furnished, that they should be located and secured in the manner described. Similar causes required a similar disposition of the force which remained in Buffalo during the winter; two companies of which, this deponent recollects, passed their winter quarters in the houses of that village. The military occupation of those places continued until the opening of the campaign, and was distinctly manifest to the naked eye of the enemy, from the opposite shore of the river, which was, besides, occasionally raked by the batteries at Black Rock. The repeated visits of British officers, from the grade of colonel down, might also, had further evidence been required, have ascertained the fact. Lt. King, who had been wounded, was brought over by a detachment from our army, and placed in a house at the lower end of Black Rock. The campaign closing soon after, permission was obtained by the officers of the British army to visit him throughout his confinement, which continued until March. They availed themselves of this privilege, and always landed for that purpose at the upper end of the town, whence they passed along the street to the other extreme, and where lieutenant King was confined. Thus they could not avoid discovering the apparent and entire military use of the whole village. At Youngstown, all the houses were turned into barracks, hospitals, or receptacles for munitions of war, in the fall of 1812: besides, there were two batteries; one in the village, the other distant a quarter of a mile from the upper end, and near a ware house standing between the road and river. Under the foregoing view, this deponent is of opinion that the American army could not preserve itself through the winter, or maintain an effectual hostile attitude on the Niagara frontier, without a recurrence to the essential advantage derived from private houses and property.

This deponent further saith, that he has no interest depending in any wise upon this evidence.

SAMUEL LANE, *late a lieut. col. U. S. Army.*

Sworn and subscribed before me,

DANIEL RAPINE.

District of Columbia, } ss.
Washington County. }

Benajah Mallory being duly sworn, maketh oath that in the winter of 1813-14, he commanded a corps of Canadian volunteers in the service of the United States on the Niagara frontier—that they formed part of the garrison of Fort George until the evacuation of that post about the tenth of December, when the militia having been mostly discharged, and the town of Newark destroyed; he crossed to the American side of the river, and shortly after received the order of Gen. M'Clure, hereunto annexed, to station his command at Schuyler, and Judge Porters mills, near the falls of Niagara, for the protection of the public and private property in that neighborhood; which he accordingly did and was joined by a number of inhabitants of that vicinity who placed themselves under his command.

That on or about the 19th of December, having heard that the enemy had crossed the river near Lewistown, and were approaching his position, he met them several miles in advanced with the force under his command, and succeeded in repeatedly driving them back; but being at length overpowered by numbers, he was obliged to fall back to Fort Schuyler, when he made another stand and suffered severely, until he was on the point of being surrounded and captured by an overwhelmning force, he retired up the river to Buffuloe. That on the 23d of December he was put in command of the forces at Buffaloe, by Gen. M'Clure, and continued in command until he was superceded by the arrival of Maj. Gen. Hall, on the 26th. That he was in the battle of Black Rock, on the morning of the 29th, when the British destroyed the villages of Black Rock and Buffaloe.

And this deponent further says, that for several days before the destruction of the said villages, the whole of that part of the frontier visited by this deponent wore the appearance of a military cantonement; almost every house and other building in the said villages of Black Rock and Buffaloe, having been put into requisition for barracks or other military purposes, and the inhabitants being obliged either to abandon or to confine themselves to a very small part of their houses.

And this deponent further says, that part only of the village of Manchester, at the Niagara falls was destroyed by the enemy, it being as this deponent was informed, the order of the commanding British officer to distroy only such buildings as appeared to have been used for military purposes.

B. MALLORY.

Washington City, January 13th, 1817.

Sworn and subscribed to before me, a justice of the peace, the date aforesaid.

JAMES H. BLAKE.

Copy of the testimony taken under a commission issued to Charles Townsend and Jonas Williams, and applicable to the case of ————————

State of New-York, }
Niagara County. } *ss.*

Augustus C. Fox, of Erie, in the state of Pennsylvania, being duly sworn, saith, that he was a resident of Buffaloe, in the county of Niagara and state of New York, when that place was destroyed by the British, in December 1813; that on the morning the enemy captured Buffaloe, Cyrenius Chapin, on behalf of the village, went and met the enemy with a flag; that he soon returned with a number of British officers; that this deponent shortly after this entrance into the village, conversed with the said officers, and inquired of them the terms of the capitulation; that they stated to this deponent that public property was to be given up and private property respected; and this deponent further saith, that he soon after left the village, and when he had got about a mile from said village, he discovered the public vessels lying on the beach near to Buffalo village on fire; and this deponent further saith, that at the time, and previous to the destruction of Buffaloe by the enemy; the place was occupied by troops in the service of the United States; that most of the houses at that time, and many previous to that time, had been used as barracks; that much public property had been deposited in said village; and this deponent further saith; that from the commencement of the war to the destruction of Buffalo the said village had more or less public property deposited therein, and many of the buildings during that time used as barracks or military deposits; and this deponent further states, that at the time, and a little previous to the destruction of Buffalo, that private buildings were forceably, or by threats, taken possession of by the troops in the service of the United States; and this deponent further saith, that since the destruction of Buffalo, he has heard British officers state that Buffalo, at the time it was

burnt, was a military encampment; and this deponent saith, that he has no intention directly or indirectly in any of the claims of the inhabitants of Buffalo for losses caused by the distruction of Buffalo, as aforesaid; and further saith not.

AUGUSTUS C. FOX.

Sworn to and subscribed, this 2d day of September, 1816, before me, CH. TOWNSEND.

Bloomfield, June 21st, 1816.

This may certify, that the village of Buffalo, was for several days previous to its being burnt by the enemy (being the 30th of December 1813) made use of as barracks for the New York state militia and volunteers then in the service of the United States; that I had been in command about three days (at Buffaloe) previous to its being destroyed, and was at that time commanding officer on the Niagara frontier, and authorised such occupancy; and that I am satisfied that one principal cause of said village being burnt was in consequence of its being a military deposit and occupied as barracks in the service of the United Stetes.

A. HALL,
(Late) Major General, State of New York Militia.

State of New York, }
Ontario County, } *ss.*

Be it known, that on this 29th day of July, in the year one thousand eight hundred and sixteen, before me, the undersigned, personally appeared Amos Hall, esquire, the person who subscribed the within certificate, who, being duly sworn, made oath that the facts stated in the within certificate were true.

CH. TOWNSEND,
Commissioner for taking proof of claims.

State of New York, }
Niagara County. } *ss.*

William Hull, being duly sworn, saith, that on the 30th of December, 1813, this deponent was a captain of volunteers in the United States service, and recruiting officer under orders of the Secretary of War; that a short time previous to that time, being stationed at Buffaloe and commanding a seperate corps there, this deponent received orders from the commanding general of the Niagara frontier, dated at Batavia, directing him to take such buildings at Buffalo, for the use and occupation of the troops that were ordered there, as

might be necessary; that, pursuant to those orders, he took possession of several buildings, without the knowledge or consent of the owners; that at the time the place was destroyed, and previous thereto, it was generally occupied by troops in the United States service as barracks; that much public property was deposited therein in many of the houses and other buildings in said village, and he believes there was more property of that description deposited therein than in any other place on the Niagara frontier, and was generally considered as a military post in the service of the United States.

WILLIAM HULL.

Sworn to and subscribed, this 2d day of September, 1816 before me, CH. TOWNSEND.

State of New York, } ss.
Niagara County. }

Rowland Cotton of said county, being duly sworn, saith that in the month of December, 1813, this deponent was acting aid de camp to Timolley S. Hopkins, brigadier general, under the command of major general Amos Hall; that previous to the destruction of Buffaloe and Black Rock, the said General Hopkins commanded this deponent to take possession of any of the buildings situated in the latter village, for the quartering of the troops under his command; that in persuance to this order, deponent did take possession of all the buildings which were suitable for the accommodation of said troops; and that the said buildings were so occupied when destroyed by the enemy, on the 30th of December, 1813.

ROWLAND COTTON.

Sworn to, July 25th, 1816, before me,
CH. TOWNSEND.

State of New York, } ss.
Niagara County, }

John Lay, jun. of said county, being duly sworn, saith, that he was in the village of Buffalo on the thirtieth of December, 1813, when that place was captured and destroyed by the British; that after some resistance on the part of the inhabitants, colonel Cyrenius Chapin, in their behalf, went with a flag of truce to the head quarters of the British general, and after some time returned with information that he had concluded an agreement with the British general, and that by which all property belonging to said inhabitants, and not in the United States' service, was to be respected; that immedi-

ately after that the British army marched into the village, and this deponent understood from the officers commanding said army that such a capitulation had been made, and that private property would not be destroyed, and they apprised him that one of the stipulations were, that all the spirituous liquor in the village was to be destroyed, in order to prevent the Indians of their army from committing excesses; on which this deponent immediately destroyed about five hundred gallons of liquor belonging to his present copartner in trade, Eli Hart; that sentinels and patroles were placed about the village by the enemy to cause to be executed the terms of the capitulation, as this deponent understood and verily believed; that after remaining in the village some time, it was discovered that the buildings generally were occupied as barracks, or as deposits for military stores, and an order was given to destroy all such buildings; that in consequence of such order the buildings generally, with a few exceptions, were destroyed; that afterwards on that day this deponent was taken prisoner, and crossed the Niagara river in company with the general officers of the enemy, and that he heard them observe that their sole object was to capture and destroy United States' property, of which they had heard large quantities were deposited in Buffalo; that when they had arrived at Buffalo, finding but few inhabitants, and their buildings principally occupied as barracks for troops, or as military deposits, they had concluded to destroy them, contrary to their original intentions when they went to our shores; that the said village was generally considered as a military post, and this deponent verily believes was destroyed in consequence; and further saith not.

JOHN LAY, jun.

Sworn to and subscribed, this 28th day of August, 1816, before me, CHARLES TOWNSEND.

Washington County, }
District of Columbia. }

On this 25th day of October, in the year 1816, before me the subscriber, a justice of the peace for the county and district aforesaid, personally appeared Peter Odlin, and made oath, in due form of law, that the copies of the depositions above transcribed are true copies of the originals filed in Richard B. Lee's office, the same having been carefully examined and compared.

JAMES M. VARNUM.

State of New York, }
County of Niagara, }

Personally appeared before me, Robert Fleming, a justice of the peace in and for said county, and a commissioner for taking evidence respecting the losses sustained by the inhabitants on the Niagara frontier in said state, during the late war, Thomas Dickson, of Queenston, Esq. a Lieut. Colonel in the Upper Canada militia, who, being duly sworn, deposeth and saith, that it was generally supposed on the Canadian frontier, that both the villages of Lewiston and Buffalo were occupied as military posts previous to, and during the month of December, 1813; the deponent having been in Lewiston the beginning of December 1813, knows it was then a military post, as he saw the troops of the United States in it at the time, and on the 19th December, the day on which Fort Niagara was taken by the British, two cannon shot were fired from Lewiston battery into the village of Queenston, which shot lodged in the bank near the deponents house, where Capt. Cameron of the Provincial Artillery and the deponent were at the time; a few hours afterwards the deponent saw the Indians and British troops in Lewiston, and the most of the houses on said village in flames; the deponent verily believes that both the villages of Lewiston and Buffalo were military posts of the United States and under that impression the British generals gave orders for their destruction.

After the destruction of Buffalo and Black Rock, about the end of December or beginning of January, he was informed by the officers of the 1st. Regt. of Royal Scots, under the command of Lieut. Col. Gordon, that they had marched down with orders to scour the American frontier from Buffalo to Fort Niagara via Manchester and Lewiston, which service the deponent believes they performed, as he saw them march down thro' Lewiston; the deponent at the time, understood the orders given were, to scour the lines to prevent them from being again occupied by the American troops; the deponent was in Queenston on the tenth of December, when Niagara, commonly called Newark, was burned by the Americans; that he had no suspicion that any thing of the kind was to take place, tho' he had been a prisoner with the Americans in Fort Niagara, and was allowed by General M'Clure to go home to see his family, and Commodore Barclay, who was at deponents house on the 6th December; the British army advanc-

ed on the 11th and 12th December to Queenston and Fort George; on the 19th December Fort Niagara was taken and Lewiston burned, and as the commander in chief was at that time in Lower Canada, the deponent believes Fort Niagara was taken and Lewiston burned by order of the general commanding in Upper Canada. The deponent further declares that he has no interest whatever in the claim of any person for remuneration from the government of the United States for losses sustained during the late war.

THOMAS DICKSON,
J. P. Queenston, and Lt. Col. Up. Can. Militia.

Sworn before me, at Lewiston, 30th November 1816.

ROBERT FLEMING, *Justice of peace.*

District of Niagara, ss.

Isaac Swayze, being duly sworn, doth depose and say, that he has no interest either directly or indirectly in the claim of any person or persons for losses sustained during the late war on the American frontier; that this deponent commanded his Majesty's Royal Artillery drivers, from June 1812 until September 1813; that during the summer season of 1812, this deponent, for the purpose of drill passed and repassed to and from Niagara to Queenston, the road leading along the bank of Niagara river, several times each week with from eight to ten pieces of artillery; that most of the buildings on the American shore were occupied by American troops, from which buildings the said artillery were, when passing as aforesaid, continually annoyed by fire of the troops so stationed at the said buildings; that at one time in particular, the said artillery were fired at by platoons from the American side; that this deponent ordered one of the pieces to be prepared for firing on the Americans, but on reflection desisted, that this deponent left the upper for the lower province of Canada in the month of September 1813; that he attended the session of Parliament, in the winter of 1813 and 1814, in the upper province; that he again returned to Montreal, where he, the deponent, had a conversation with Colonel Murray, who commanded the British forces that took Fort Niagara, in December 1813; that Colonel Murray then told the deponent that the American frontier was not burned on the ground of retaliation, but was destroyed expressly for the purpose of depriving the United States army of quarters or barracks, and as places for military deposits; that this deponent well knows, from information and actual observation, that all the

buildings along the American frontier, from Buffaloe to Fort Niagara, was occupied by the army of the United States, in some way or other, previous to the destruction of the same in December, 1813; that in the year 1814, this deponent had a conversation with Lieutenant General Sir Gordon Drummond, who told this deponent, in substance, that the American Niagara frontier was destroyed in consequence of the same having been occupied by the United States army during the war, and to prevent its being so occupied hereafter; that the said frontier was not destroyed from a principle of retaliation; that it was beneath the British government to have distroyed the frontier from such motives; that he was convinced General M'Clure destroyed Newark without the order of the government, but that the only motive in destroying the said frontier was because the buildings had been occupied by the U. States, and to prevent the same army from again occupying the same; that this deponent, on the eighteenth of December, 1813, had a conversation with Sir George Prevost at Quebec, in the province of Lower Canada, he observed to this deponent that he had received information that Newark, in Upper Canada, had been burned by the American force; that this deponent suggested the plan of destroying the American frontier in retaliation, to which Sir George promptly replied, no, captain Swayze, no retaliation shall take place while I am in command; that this deponent, as well as most other officers in his Majesty's service, had for a long time previous to December, 1813 intended to burn the buildings on the American side of the river, to prevent their having a harbor or barrack so near the British army, from which they experienced a continual annoyance; that the orders given by the British generals commanding on the Niagara frontier were generally verbal; this deponent was in service about one and a half year, and in that time only received two written orders; that there was no written order, as this deponent believes, for destroying the American frontier; but this deponent believes the same was verbal.

ISAAC SWAYZE,
Captain R. A. D.

Sworn to and subscribed, this 27th November, 1816, before me.

ROBERT FLEMING, *Justice of peace.*

I, WILLIAM H. MERRITT, late captain of the provincial Light Dragoons, passed over with a flag to the American side of the Niagara river. I passed along the streets

of Lewistown, and observed that troops or military stores were in the houses, which I particularly remarked through the village of Lewiston: wherever I went this observation was repeated. This event occurred a few days previous to the crossing of the British army to the American shore; whose movement over was, in my opinion, accelerated in consequence of this observation. It was known to us that the Niagara line was a military depot for the American army a long time before its destruction. I have no interest depending on any decision which may be affected by this evidence.

WM. H. MERRITT,
Late captain Provincial Light Dragoons.

Sworn to and subscribed, this 27th day of November, 1816, before me, ROBERT FLEMING,
Justice of peace.

I was a prisoner with the American army, and had my release on parole a week before the destruction of Buffalo; I was marched from Fort Niagara to Lewistown some days before the fort was taken. I only entered one house from Niagara to Lewistown. At Lewistown I entered many of the houses, and saw troops in all of those I observed, together with their ordinance and equipments. From Lewistown to Buffalo, through Schlosser and Black Rock, all the houses I observed, and remarked the greatest number of them were filled with troops. At Buffalo I was put in the house of E. Ranson, the two lower rooms of which were occupied by troops; and from the noise above, I believe the upper apartments were converted to the same use. It is my impression, from what I saw, that the whole of the houses were occupied by the United States' troops. This military occupation of private houses and property was generally known or believed by general Drummond and the British army. General Drummond, acting under this opinion, crossed over from Lewistown to Canada, and marched up to Buffalo on the Canada side, not knowing what ambush might be planned against him from the houses under military occupation on the other side. The tenor of the order given in relation to such houses I have always understood required the destruction of those which offered any mark of a previous conversion to a military use. At any period of the war, subsequent to the military occupation of the Niagara, I was of opinion the same destruction would have taken place had an opportunity been presented of committing it. A proposition to this effect I have frequently heard

suggested by many officers of respectable rank in the regular service. I was at that time, and am at present, a captain of Provincial militia. I have no interest whatever depending on the decision that may be made on this evidence.

WM. LYONS.

Sworn to and subscribed, this 24th day of November, 1815, before me, ROBERT FLEMING,
Justice of Peace.

State of New York.
County of Niagara.

Alexander Cameron, of Niagara in the District of Niagara; late a captain of a company of Incorporated Militia Artillery in the province of Upper Canada, being duly sworn, maketh oath and saith, that he has no claim directly or indirectly in the claim of any person or persons on the American Niagara frontier for losses sustained during the late war; that he was in command of the artillery in the British service employed in the destruction of the village of Lewistown, was present at the same, and doth verily believe, and at the time understood, in common with the officers of the British army, that such destruction of the said village was in consequence of orders issued by the commanding general of the British forces on the frontier to major general Philip Riall, in command of the British forces, who crossed the Niagara river for the capture of the fort of Niagara and the destruction of Lewistown; that the said general Riall was present at the destruction of Lewistown; and that the deponent, by order of the major general, effected the destruction of Fort Gray; that he, this deponent, verily believes that a primary motive for the destruction of Lewistown, Black Rock, Buffalo, and the houses on the Niagara River between those places, was to prevent their reoccupation by the armies of the United States; and that it was so understood by the army of his majesty in general employed in that expedition.

ALEXANDER CAMERON,
Late captain Incor. Mil. Artillery.

Sworn to and subscribed, this 10th day of November, 1816, before me, ROBERT FLEMING,
Justice of Peace.

I, Adam Brown, Lieutenant in the first Regiment of Lincoln militia in Upper Canada, certify, that I lived on the Niagara frontier the whole period of the late war, except a short

time that the British forces retreated therefrom; that I, as well as the officers of the army generally, knew that the buildings on the Niagara frontier were occupied by the forces of the United States, from the commencement of the late war until the destruction of them in December, 1813; that I crossed with the army and proceeded down the river to Youngstown, and from thence returned and advanced upon Lewiston; that on the route all the buildings appeared to have been occupied by the American army; that the buildings of Mrs. Grearsit at Youngstown, and others, were occupied at that time as hospitals, that at Lewiston, the house of Joshua Fairbanks particularly, and the others generally, contained military stores, or had been used there recently as barracks; that I understood the buildings on the Niagara frontier were destroyed because they had been occupied by the army of the United States, as well as to prevent the same being further occupied. I also certify that I have no interest in the claim of any person on the American Niagara frontier for losses sustained during the late war.

ADAM BROWN,
Lieut. 1st. Regt. Lincoln Militia.

Sworn to and subscribed, this 27th day of November, 1816, before me,

ROBERT FLEMING, *Justice of peace.*

I, JAMES SECORD, of Queenston, Merchant, have had frequent conversation with General Rial, Col. Drummond Col. Gordon and Col. Ogilvie, and have often heard the intention expressed among them, by which in particular I cannot designate, to cross over to the American shore soon; that there they would burn and destroy every thing which they should discover had been or might be of use to the American army which depended for quarters on the houses on the New York side of the Niagara. By so doing they said they would prevent the American army from continuing in its harbor for another year. I have no interest that can be affected by this evidence.

J. SECORD.

Sworn to and subscribed, this 28th day of November, 1816, before me,

ROBERT FLEMING, *Comr. and J. P.*

J. Peter M'Dougal, of Newark, merchant, was one of the corps which crossed over to the Five Mile Meadow, and advanced to Lewistown. I remarked that the houses, from

the place of our landing, to and at Lewistown, had stores for troops and munitions of war in them, or appeared at the time under the occupancy of the American army. The orders under which we acted, were general. They proceeded from general Rial; and required that the houses should be burnt, on account of the use made of them by the United States troops, either as barracks, storehouses, or a deposite for ammunition and implements of war. The order was general, to prevent their similar use in future. This order was generally understood, and believe would have been issued at any period of the war, after we had ascertained that the New York side of the Niagara river, afforded quarters for the American army, which destitute of regular barracks, depended for their accommodation on private house. I have no interest that can be affected by this evidence which I have given.

PETER M'DOUGAL.

Sworn and subscribed this 26th of November 1816.

ROBERT FLEMING, *Com. and J. P.*

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